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Book Reviews

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THE SCHOOL SEGREGATION DECISION. Albert Coates and James C. N. Paul. Chapel Hill, North Carolina: Institute of Government, The University of North Carolina, 1954. Law and Government Series, No. 9. Pp. x, 132 (Paper).

The United States Supreme Court was conscious, at the time it handed down its unanimous decision in the public school segregation cases,[1] of the fact that the impact of the determination there announced, one designed to put an end to the "separate but equal" doctrine at least insofar as it related to mandatory public school training of children of different races, was of such a startling character that "problems of considerable complexity" would be generated thereby. As a consequence, it set the cases down for further argument on the issue as to the nature of the relief which should be granted to effectuate the decision on the primary question. To the end that it might have the benefit of the fullest discussion before taking action, the court also invited participation in the further argument by states other than the ones which were already parties before it, particularly those where segregation in public education was either required or permitted by law. The Governor of North Carolina, in which state segregation has been practiced under constitutional mandate[2] since 1876, thereupon directed an inquiry to the Institute of Government of the University of North Carolina, requesting that a study be made of the legal problems involved in the wake of that decision, and this monograph followed as a result thereof.

After making allowances for the stress under which it was prepared, the report of the co-authors, one discussing the background on which the decision was imposed and the other interpreting the holding, its import, and its possible alternative applications, provides a most lucid analysis of the steps which might be taken to put constitutional concepts into operation without producing the holocaust which has been predicted by certain of the spokesmen for the South. Three rather obvious courses of action have been mentioned. One would move on the premise that, as it was the Supreme Court which made the decision, it should be left to that court to enforce the same as best it may. That direction could well point toward another war between the states. The second, representing the

[1] Brown v. Board of Education of Topeka, 347 U. S. 483, 74 S. Ct. 686, 98 L. Ed. (adv.) 583 (1954). See also the related case of Bolling v. Sharpe, 347 U. S. 497, 74 S. Ct. 693, 98 L. Ed. (adv.) 591 (1954).

[2] N. C. Const. 1876, Art. IX, § 2.

normal outcome of a litigated case, a course calling for immediate obedience to the interpretation so given to the Constitution with a concomitant repeal of all state law in opposition thereto, would ignore many of the fearful problems which could accompany the job of adjusting life to law. The third, and generally recommended, course would be one designed to make haste slowly, slowly enough to avoid litigation and strife but hastily enough to bring the states into line; to keep the public schools and to keep the peace.

Naturally enough, the bulk of this report is devoted to the third of these alternatives. Consideration is there given, with thought to all applicable and related constitutional doctrines, for those proposals which have been advanced to date, including among them such possibilities as the creation of a system of state-supported free private schools, of payment of grants to school-aged children to cover tuition in available private schools, of redistricting school areas, of providing for school elections, and for the setting up of state adminstrative machinery to deal with individual problems on an individual basis. Whether any of these, or similar, proposals will receive credit at the hands of the Supreme Court is a matter of doubt. Nevertheless, the historical, statistical and legal outlines of the problem are here sharply defined. The discussion proceeds with a degree of reasonableness which is noteworthy when contrasted to some of the fiery remarks which have been made on the subject. If cooler counsels are to prevail, they will need more reinforcement from matters of the kind here presented.

RESEARCH IN ILLINOIS LAW. Bernita J. Davies and Francis J. Rooney. New York: Oceana Publications, 1954. Pp. 68 and index.

This slender but highly useful treatise of value to every Illinois lawyer, deals not so much with the conventional materials found in works on law books and their use as it does treat with those publications which should be of particular importance to the local practitioner. While no attempt has been made to provide a complete bibliography of all Illinois legal materials,[1] the principal works are tabulated, whether composed of material of primary or secondary character, and close attention has been given to those divisions or departments of the state government which are, or have been, instrumental in fabricating law of significance to the researcher. The discussion ranges over such topics as statutory law, the

[1] No mention, for example, has been made of the 1953 publication of John Alan Appelman's "Successful Appellate Techniques," reviewed in 31 CHICAGO-KENT LAW REVIEW 391. That book provides a most excellent collection of forms for use in appellate matters, many of which are based on Illinois practice.

judicial system and court reports,[2] digests, citators, court rules, administrative regulations and reports, texts, and a variety of miscellaneous materials, with pertinent reference and explanation as to each. One who becomes familiar, through this little book, with the several publications there mentioned, wherein the law may be found, should experience little difficulty in doing an adequate job in finding the material from which to construct opinions, briefs, arguments and the like. Such a person would have a relatively simple task in "looking up the law," at least insofar as the law he seeks relates to but one particular jurisdiction. The volume is the second[3] in a series designed to aid in narrowing the scope of research. It should prove to be a most welcome addition in view of the tremendous growth in legal publications which has marked, or should one say marred, the last half century.

HUGH ROY CULLEN: A Story of American Opportunity. Ed Kilman and Theon Wright. New York: Prentice-Hall, Inc., 1954. Pp. viii, 376.

The grist which comes to the book reviewer's mill is often varied in caliber as well as varying in its quality but, if a public service is to be performed,[1] nothing should be slighted which, in any way, could be said to possess even the smallest degree of interest for those who might compose the circle of the reviewer's readers. It is on this basis, therefore, that mention is made of this biography of a living Texas oil millionaire who, while one of the country's wealthier men as well as one of its greater philanthropists, is not well known beyond the borders of his state, perhaps because the bulk of his philanthropic activity has been of localized character.

The outlines of the story revealed therein may be briefly told. They parallel the circumstance of modest birth, the lack of formal education at higher levels, the shift in occupations until the one main goal has been found, the willingness to expend all-out energy in the pursuit thereof, and the establishment of a reputation for personal integrity, leading onward to ultimate success, that has marked the rise of many another well-known American figure. To comment on parallels invites attention to contrasts.

2 A slight inaccuracy exists in the list of courts said to form the Illinois judicial system for no notice is taken there of the recent formation of a Municipal Court for the Village of Oak Park, apparently the second court to be formed under Ill. Rev. Stat. 1953, Vol. 1, Ch. 37, § 442 et seq. A lag in time between the preparation and publication of the manuscript may be responsible for this rather minor omission.

3 The first of the series was entitled "Research in Pennsylvania Law."

1 Lawyers, particularly, will recognize the village mill of the feudal period as the forerunner of the modern public utility, an institution endowed with monopolistic privileges but obligated to serve all customers alike. See, for example, Bennett, Life on the English Manor (University Press, Cambridge, 1948), Ch. VI, particularly pp. 129-35.

Here, then, is the story of a man who, while unlearned in the formal sense, has nevertheless made college training available to thousands, perhaps millions, of others; who, lacking membership in any organized creed, has supported churches, hospitals, and other humanitarian bodies of many different denominations; of one who, possessed of great wealth, has given away more money than most people could count in a lifetime.

As a lesson in American opportunity, with its attendant proof that the presence of a degree of self-confidence, a sense of initiative, and a willingness to take a calculated risk can pay off at high figures, the book may serve to amaze others, particularly those who may have formed the pessimistic belief that the promise inherent in the American way of life is fast running out. As a publicity-working device, it should operate to make the nation conscious of the fact that not all the important men in the country are at the nation's capital or in the larger centers of finance and industry.[2] As a work of literature, however, this volume may be described as being sufficiently redundant, repetitious, and common-place that, were it not for the wealth of its subject, it is doubtful whether the book would otherwise ever have been placed in print.

If the question were to be asked as to what this book has in it which could be a matter of particular concern for Midwestern lawyers, the answer would have to be that there is little of interest therein, outside of its general theme, other than some passages which throw light on the preliminaries leading up to the Republican National Convention of 1952. It is doubtful if any television viewer who looked in on that convention will ever forget the fight over the seating therein of the Texas delegation; a fight which, in no unfair sense, may have changed the course of American history.

HOW TO PROVE A PRIMA FACIE CASE, Third Edition. Howard Hilton Spellman. New York: Prentice-Hall, Inc., 1954. Pp. xiii, 701.

When the late Samuel Deutsch and his co-author Simon Balicer, in 1928, issued the first edition of this popular work, they set the tone for many of the "how-to-do" books which have been published since that time with intent to aid the practicing lawyer in the performance of his professional tasks. They recognized that law "in theory," as taught in most

2 Time Magazine, Vol. LXIV, No. 24, p. 33 (Dec. 13, 1954), reported that the subject of this biography had purchased a rumored 250,000 copies thereof, probably with a view toward spreading the message around. The same story also mentioned that Houston's Texas Medical Center, recipient of some of the Cullen largesse, had ordered 108,000 additional copies, probably for much the same reason. Mr. Cullen, in a telegram to the editor of the same magazine, Vol. LXIV, No. 26, p. 4 (Dec. 27, 1954), said the report of his purchase was a "misstatement of fact" but appears to have admitted the purchase by the Medical Center "to be distributed" by the publishers.

law schools, must often be translated into law "in fact" if it is to operate in a practical world where doing often counts for more than knowing how or why to do. The bridge they provided between formal legal education and the application thereof in concrete situations has been one over which literally hundreds of lawyers, not all of them newly admitted to practice, have crossed with profit in the intervening years. It is fitting, therefore, even at this late date to acknowledge the debt owed to their pioneer efforts while, at the same time, calling attention to the fact that this new edition goes far beyond the initial performance.

Those who have used the earlier editions are familiar with the general contents of the predecessor volumes, made up as they were of specimen interrogations of witnesses, put in question and answer form, from which it was possible to deduce the details of the prima facie cases involved in the more frequently used types of proceedings. The third edition does not deviate from this pattern for there is spelled out therein the questions and answers which go to establish a case on an account stated, a suit for breach of promise to marry, a proceeding for specific performance, or a claim for work performed, to mention but a random few of the many illustrative situations considered. If anything, the list has been expanded to meet those mutations which have occurred in the social and economic life of the community since 1928.

The second edition, issued eleven years later, gave recognition to the fact that many common incidents are likely to occur in the trial of variant cases, so it supplemented the analyses of prima facie cases by providing similar treatment for such points as the proof of an agency relationship, of the contents of a lost instrument, or the admission into evidence of a photograph, any one of which might be of major importance in the conduct of a suit. Again, the third edition repeats this valuable instruction but, at the same time, provides amplification thereon as newer aspects of proof have come to the fore.

Not the least of the improvements to be found in the third edition, however, is the up-dating which has occurred in the citation of leading illustrative cases from each American jurisdiction wherein the evidence problems so presented have been considered. For that matter, it could be noted that a substantial reduction in the physical size of the volume has been achieved by a more judicious selection in type sizes and styles. The end product of these changes, additions and improvements is, therefore, a vastly more usable as well as a more useful book than was true of either of the earlier editions. Lawyers and students who possess either or both of the first and second editions should welcome the supplementation now so provided. The fledgling who has neither, should make this book one of the first to be included in his working law library.